

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TROY A. SYKES,

Plaintiff,

v.

AVENAL STATE PRISON, et al.,

Defendants.

Case No.: 1:23-cv-00966-JLT-SKO (PC)

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR SUBPOENA**

(Doc. 23)

Plaintiff is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. section 1983.

**I. BACKGROUND**

Following screening, this action proceeds on Plaintiff's Eighth Amendment conditions of confinement claim against Defendant John Doe, Avenal State Prison (ASP) Food Services Head Manager, only. (*See* Docs. 14 & 15.)

On October 24, 2024, this Court issued an order granting Plaintiff ninety (90) days within which to identify the John Doe defendant. (Doc. 16.) On November 4, 2024, Plaintiff filed a document titled "Plaintiff's Request for Motion of Subpoena for Name of (A.S.P.) Food Services Head Manager." (Doc. 17.)

On January 3, 2025, this Court issued an Order Denying Without Prejudice Plaintiff's Motion for Subpoena. (Doc. 18.) Plaintiff was advised he could "resubmit his request for a

1 subpoena to learn the identity of John Doe,” but he “must identify an individual to whom the  
2 subpoena should be directed and explain how a record identifying John Doe is ‘obtainable only  
3 through the identified third party.’” (*Id.* at 2-3.) The Court also extended the limited discovery  
4 deadline by an additional ninety days. (*Id.* at 3.)

5 On January 27, 2025, Plaintiff filed a document titled “Plaintiffs Motion for Subpoena.”  
6 (Doc. 19.) On April 1, 2025, the Court issued an Order Granting Plaintiff’s Motion for Subpoena.  
7 (Doc. 20.) The Clerk of the Court was directed to forward service documents to the United States  
8 Marshal, including a subpoena duces tecum addressed to “Acting Warden Williams” at Avenal  
9 State Prison seeking the following information: “The identity of the individual employed as the  
10 Food Services Manager at Avenal State Prison during the period between December 2022 and  
11 July 2023.” (*Id.* at 3-4.) On May 1, 2025, the United States Marshal returned the subpoena  
12 unexecuted. (Doc. 21.)

13 On May 5, 2025, the Court issued an order regarding the unexecuted subpoena and  
14 directed Plaintiff to respond with additional information within 21 days. (Doc. 22.) Plaintiff  
15 timely responded on May 15, 2025. (Doc. 23.)

## 16 II. DISCUSSION

17 Plaintiff’s May 15, 2025, response indicates Martin Gamboa is the current warden at  
18 Avenal State Prison and is the official able to identify the Food Services Manager employed there  
19 between December 2022 and July 2023. (Doc. 23.) Plaintiff asks the Court to direct a third-party  
20 subpoena to Gamboa. (*Id.* at 2.) Plaintiff indicates he “has still received no response [to an earlier  
21 request he submitted asking officials] to provide this information to correctly identify ‘John Doe’  
22 listed as ‘Food Services Head Manager’” at the institution during the relevant period. (*Id.*)

23 Plaintiff’s request is relevant to his claim, clearly identifies the information he seeks—the  
24 name of the individual in charge of food services at Avenal State Prison—and establishes that the  
25 information is obtainable only through the identified third party—Martin Gamboa, Warden at  
26 Avenal State Prison—because Plaintiff’s less formal request for the information has been  
27 disregarded. *Davis v. Ramen*, No. 1:06-cv-01216-AWI-SKO (PC), 2010 WL 1948560 at \*1 (E.D.  
28 Cal. May 11, 2010); *Williams v. Adams*, No. 1:05-cv-00124-AWI-SMS (PC), 2010 WL 148703 at

\*1 (E.D. Cal. Jan. 14, 2010). The Court finds no indication that the prison's warden would be burdened by excessive or unusual expenses given Plaintiff's request. *Badman v. Stark*, 139 F.R.D. 601, 605 (M.D. Pa. 1991); *Austin v. Winett*, No. 1:04-cv-05104-DLB PC, 2008 WL 5213414 at \*1 (E.D. Cal. Dec. 12, 2008).

In sum, the Court will grant Plaintiff's request. The Court will also extend the limited discovery period to allow for issuance of and compliance with the subpoena, and for Plaintiff's submission of a notice to substitute the name of the individual for the John Doe defendant named in his complaint.

### III. CONCLUSION AND ORDER

For the foregoing reasons, **IT IS HEREBY ORDERED** that:

1. Plaintiff's request for a subpoena duces tecum (Doc. 23) is **GRANTED**.
2. The Clerk of the Court shall forward the following documents to the United States

Marshal's Service (USM):

- a. One completed and issued subpoena duces tecum to be served on:

Warden Martin Gamboa  
Avenal State Prison  
1 Kings Way  
Avenal, CA 93204

- b. One copy of Plaintiff's first amended complaint (Doc. 11).

- c. One completed USM-285 form; and

- d. Two copies of this Order, one to accompany the subpoena and one for the USM

3. In completing the subpoena, the Clerk of the Court shall list, as described here, the information or document requested:

The identity of the individual employed as the Food Services Manager at Avenal State Prison during the period between December 2022 and July 2023.

4. Within thirty days from the date of this order, the USM is **DIRECTED** to serve the subpoena in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure.

5. The USM shall affect personal service of the subpoena duces tecum, along with a copy of this Order and a copy of the first amended complaint, upon the individual or entity named in the subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).

6. Within ten days after personal service is affected, the USM shall file the return of service, along with the costs subsequently incurred in effecting service, and said costs shall be enumerated on the USM-285 form.

7. Within thirty days after service is effected, Warden Martin Gamboa at Avenal State Prison is directed to serve the responsive information or document on Plaintiff:

Troy Sykes  
AK-9480  
Avenal State Prison  
P.O. Box 903  
Avenal, CA 93204

8. Within fourteen days upon receipt of the information or document identifying the John Doe defendant, Plaintiff is directed to file a request for substitution with the Court. Once the Court is in receipt of the identifying information for this individual, the Court will issue the appropriate order necessary to effectuate service of process.

9. The limited discovery period is extended an additional 90 days from the date of this order to allow Plaintiff to comply with the Court's previous order to identify the John Doe defendant and to file a request for substitution with the Court.

IT IS SO ORDERED.

Dated: **May 23, 2025**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE